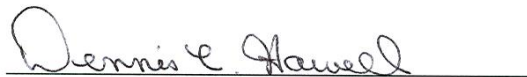


Rule 12 motions contained in an Answer, but not supported by a brief, act as placeholders and do not prevent joinder of the issues. Where Rule 12 motions are filed and briefed, issues will not join until such motions are resolved by the court, unless otherwise ordered by Court.

An examination of the file shows that “joinder of the issues” has not yet occurred in this matter. In the Answer of the Defendant (#4), counterclaims are purported to be presented by the Defendant. The Plaintiff has filed a Motion to Strike, pursuant to Rule 12 of the Federal Rules of Civil Procedure. The Defendant has not yet responded to the Motion to Dismiss and as such, the motions have not been resolved by the Court. As a result, joinder of issues has not occurred as prescribed by LCvR 16.1(D) and the request for the entry of a Pretrial Order and Case Management Plan, at this time, is premature. As a result, the undersigned will decline to enter a Pretrial Order and Case Management Plan until joinder of issues in this matter has occurred as required by LCvR 16.1(D). After joinder of issues has occurred, the parties are directed to conduct an initial attorneys conference as provided by LCvR 16.1(A) and present to the Court a new Certification of Initial Attorneys Conference which shall include a proposed discovery plan.

Signed: August 4, 2014



Dennis L. Howell
United States Magistrate Judge

